

Statement of

Mr. Douglas Cox

Legislator, Menominee Tribal Legislature

Environmental Program Coordinator

Menominee Indian Tribe of Wisconsin

Before the

State of Michigan - Department of Environmental Quality

On

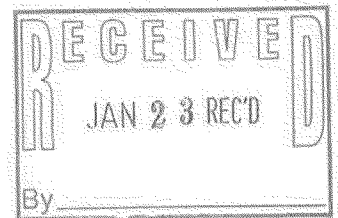
Aquila Resources Back Forty Project – Wetland Permit

January 23, 2017

Stephenson High School

W526 Division Street

Stephenson, MI 49887



I. Introduction

Good evening, my name is Douglas Cox and I serve as a Menominee Tribal Legislator and hold a Professional Position as Environmental Program Coordinator. Thank you for the opportunity to provide comments on the wetland permit on the Back Forty Project. First of all, I believe that the way in which the DEC is proceeding with this permit application is contrary to the public's interest and this process should be placed on hold pending the outcome of the federal litigation filed by the Menominee Indian Tribe of Wisconsin. Therefore, I make my comment under protest.

*Nation*  
*Go to back page*

II. Mine Permit Amendment

Within the wetland permit report; Feasible and Prudent (Least Environmentally Damaging Practicable) Alternatives Analysis, there are areas identified that have significantly changed the original project scope of the previously approved mine permit. Section 5.3 has reference to newly purchased lands that will be accommodating tailings and waste rock storage <sup>these</sup> are entirely new aspects to the proposal that haven't been previously introduced. This change should certainly require the mine permit to be reopened and reanalyzed, which must include a public comment period.

### III. Floodplain Analysis

In the information provided in Appendix b-7, there is no evidence that the floodplain <sup>Permitting</sup> ~~analysis~~ included an analysis of the effects from the White Rapids Dam which is directly above the proposed project site and pit. The Dam is currently a FERC licensed project and should have been included in preparation of materials submitted for review to determine the flood risk if a failure were to occur. White Rapids should have a Potential Failure Mode Analysis (PFMA) which would have been completed as part of its license requirement and would have information from the PFMA that <sup>Must</sup> ~~would~~ be used to analyze the flood risk.

### IV. Invasive Species Management Plan

<sup>Previously mentioned</sup>  
Within the Feasible and Prudent (Least Environmentally Damaging Practicable) Alternatives Analysis, Section 5.7 there is discussion related to the Invasive Species Management Plan (ISMP), which seems oddly out of place in a section that is intended to assess Erosion impacts and protection of water quality. There are a number of errors in the ISMP description starting with the statement in the first sentence,

*Quote*

*however*

"The ISMP defines monitoring practices for all of the identified invasive species". In examination of the ISMP there is only statements that the plans "will be" or "shall be" developed. Secondly, there is no plan that is in either this section or within the ISMP that describes how post closure monitoring will be completed for all invasive species. Lastly, there is contradictory language on page 2 of 7 that indicates there are not high risk species onsite, yet the next page 3 of 7 provides a list of high risk species that are in fact "onsite".

The Menominee Tribe does not agree with this permit and the resulting poisoning for our ancestral territory. We are opposed to the issuance of this permit and to quote Frank Ettawageshik, esteemed Michigan Odawa Leader;

"For native people, caring for the water is not a matter of practicality; we lived on this earth for thousands of years without relying on oil. We can live without gold, but we cannot live without water.

Thank you.